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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/902,768	07/12/2001	Masaru Kogure	32405W085	9583

7590

06/28/2005

Smith, Gambrell & Russell, LLP  
Beveridge, DeGrandi,  
Weilacher & Young Intellectual Property Group  
1850 M Street, N.W. (Suite 800)  
Washington, DC 20036

EXAMINER

LAVIN, CHRISTOPHER L

ART UNIT

PAPER NUMBER

2621

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/902,768

Applicant(s)

KOGURE ET AL.

Examiner

Christopher L. Lavin

Art Unit

2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on 08 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 1 and 5 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6-9 is/are allowed.
- 6) ☒ Claim(s) 3, 10 and 11 is/are rejected.
- 7) ☒ Claim(s) 2 and 4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 July 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to because figures 6, 9, and 11 require corrections. Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

With regards to figure 6, the yes and no arrows for step S10 appear to be reversed. When the line is reliable the method should count down, not count up.

With regards to figure 9, "32-TH Monitoring Area" should be replaced with "32-ND Monitoring Area".

With regards to figure 11, "Amax" and "Var" should be followed by apostrophes to symbolize that they are normalized or the drawing should in some way inform the reader of the normalized results.

Although the applicant indicates in the remarks that corrected informal drawings were submitted the examiner was unable to locate these drawings. Corrected drawings are still required.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 10 and 11 are rejected under 35 U.S.C. 102(a) as being anticipated by Akita (6,282,478).

In regards to claims 10 and 11, claims 10 and 11 are essentially rewritten versions of claims 1 and 5 respectively. Both claims add a camera (which has inherently required previously) to the previously claimed matter. Akita discloses a camera (figure 1 item 160), which is used in the vehicle monitoring system already shown in the rejections of claims 1 and 5. Further Akita discloses (col. 15, lines 42 – 50) that image processing takes place in order to perform the vehicle monitoring functions disclosed in the rejections of claims 1 and 5. Please see the prior actions for the rejections of claims 1 and 5.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Akita in view of Sato (5,555,555).

In regards to claim 3, Akita as shown above, in response to claim 10, has everything in common with claim 3 except for explicitly stating that luminance-distribution characteristics are used in the determining parameters.

Akita refers to Sato's teaching on lane detection. Sato discloses, see the sentence starting at column 9, line 47, that luminance-distribution characteristics are used to identify lane markings.

Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to use luminance-distribution (as taught by Sato) when analyzing lane detection and deviation. This technique is a relatively easy and cheap approach for detecting white lines, making the approach an ideal function for detecting lane markings.

***Allowable Subject Matter***

8. Claims 6 – 9 are allowed.
9. Claims 2 and 4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
10. The following is a statement of reasons for the indication of allowable subject matter: The art of record does not teach nor does it suggest the specific features called for in the claims, particularly normalizing a luminance-characteristic with shutter speed and using this value along with a second parameter to control the timing of a vehicle monitoring system.

### ***Response to Arguments***

11. Applicant's arguments filed 04/08/05 have been fully considered but they are not persuasive.

12. In regards to applicant's argument that there is no motivation to combine Akita with Sato in claim 3. The examiner has provided motivation, "This technique is a relatively easy and cheap approach for detecting white lines, making the approach an ideal function for detecting lane markings."

13. As previously shown, claims 10 and 11 do not overcome Akita. It is suggested that modifying these claims to include the subject matter of claim 2 or claim 4 would overcome Akita.

### ***Conclusion***

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

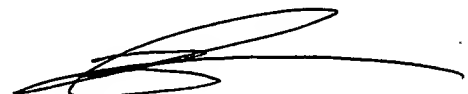
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher L. Lavin whose telephone number is 571-272-7392. The examiner can normally be reached on M - F (8:30 - 5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mancuso Joseph can be reached on (571) 272-7695. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CLL



**BRIAN WERNER**  
**PRIMARY EXAMINER**